

REMARKS

Claims 7, 10, 24-28, 30 and 32-35 are pending in the present Application. Claim 36 has been added leaving claims 7, 10, 24-28, 30 and 32-36 for consideration upon entry of the present amendment.

Support for new claim 36 can be found in claims 7 and 10.

Reconsideration and allowance of the claims are respectfully requested in view of the following remarks.

Claim Rejections Under 35 U.S.C. § 103(a)

Claims 7, 10, 24-28, 30, and 32-35 stand rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over U.S. Patent No. 6,495,184 to Zheng, et al., in view of U.S. Patent No. 4,267,195 to Boudreau, et al. and U. S. Patent No. 6,312,746 to Paluch. Applicants respectfully traverse this rejection.

Zheng et al. teaches a grilled meat flavor formed by combining a fat, an amino acid and a reducing sugar under conditions sufficient to produce a Maillard reaction. (Abstract) Zheng et al. teaches a two-step heating process in which the reaction mixture is first heated to 65-95°C as a conditioning step, then to 100-160°C to react. (Col. 4, ll. 1-28) The filing date of Zheng et al. is October 12, 2001, just one month prior to the November 13, 2001 filing date of the present application. Zheng et al. is thus a reference under 35 U.S.C. § 102(e).

Boudreau is directed to dog food flavors containing “L-proline, L-cysteine, L-histidine, L-lysine, inosine 5'-triphosphate (ITP), inosine 5'-diphosphate (IDP), and adenosine 5'-triphosphate (ATP)”. (Abstract) The use of these compounds in dog foods can “increase their palatability to dogs”. (Abstract) The flavors can be “applied to the exterior of the fat coating” or incorporated into the dog food by “simple mixing with the other ingredients”. (col. 2, ll. 42-46) There is no description of heating or in any way reacting the L-cysteine, etc.

Paluch is directed to a multi-component pet food having inner and outer components. (Abstract) The filling may comprise, for example, hydrolyzed meat protein. (col. 10, l. 61)

In making the rejection, the Examiner alleges that it would be obvious to use the flavorant of Zheng et al. in an animal food. (July 5, 2006 Office Action, p. 3)

Attached hereto is a Rule 1.131 declaration of Nayankumar B. Trivedi. As evidenced in Dr. Trivedi's declaration, the Applicants conceived of their presently claimed invention and diligently reduced to practice prior to October 12, 2001, the filing date of Zheng et al. Evidence of the conception and reduction to practice are pages from the notebooks of Lynne P. Nelles, a co-inventor of the claimed invention, pages from the notebook of Mathias Sucan, and attorney notes prepared during discussions between the inventors and patent attorney Patrick D. Kelly, who originally filed the present application. Thus, Zheng et al. is not available as a reference.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing a prima facie case of obviousness. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). Establishing a prima facie case of obviousness requires that all elements of the invention be disclosed in the prior art. *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970).

Zheng et al. is not available as a reference, and the remaining cited references at least do not teach the claimed temperature ranges. Thus, the references do not teach all elements of the present claims and do not render the present claims obvious.

It is believed that the foregoing remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Accordingly, reconsideration and withdrawal of the objection(s) and rejection(s) and allowance of the case are respectfully requested.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130.

Respectfully submitted,

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